

## Message Text

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ACTION EUR-12

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S E C R E T ANKARA 0914

E.O. 11652: XGDS-3 INDEFINITE

TAGS: MARR, TU

SUBJ: I.A. NEGOTIATION MEETING JANUARY 28, 1975:

NATO/SOFA EXTENSION

REF: ANKARA 0506

1. AT I.A. NEGOTIATION MEETING JANUARY 28, 1975 TURKISH CHAIRMAN ASULA CONFIRMED GOT POSITION ON NATO/SOFA EXTENSION SET FORTH IN HIS PRELIMINARY REMARKS DURING MEETING OF JANUARY 14, 1975, REPORTED REFTEL.

2. TURKISH CHAIRMAN SAID U.S. DRAFT HAD BEEN CAREFULLY CONSIDERED BUT TURKS STILL SAW NO NEED FOR RETAINING ANY OF THE EXTENSION'S PROVISIONS. NATO/SOFA EXTENSION HAD TO BE REVIEWED AND TERMINATED IN ACCORDANCE DCA ARTICLE XXII, PARA 4. HE SAID TURKISH DELEGATION UNDERSTOOD THAT USG WAS SATISFIED WITH EXISTING PRACTICES

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IN APPLICATION OF NATO/SOFA IN TURKEY AND TURKISH AUTHORITIES

READY TO ASSURE U.S. THAT EXISTING PRACTICES WOULD CONTINUE.  
TURKS SAW NO "URGENT OR PRESSING NEED" TO RETAIN EXTENSION  
OR ANY OF ITS PROVISIONS.

3. TURKISH CHAIRMAN THEN GAVE FOLLOWING RATIONALE FOR  
TERMINATING EXTENSION PROVISIONS IN OUR DRAFT PARAGRAPHS 1  
THROUGH 5:

A. PARA 1: APPLICATION OF NATO/SOFA TO ALL U.S. MILITARY  
(INCLUDING JUSMMAT) NOT ENJOYING OTHER STATUS WAS  
ADEQUATELY COVERED IN DCA ART. IV, PARA 1, AND  
PARAS 1 AND 2 OF NATO/SOFA IMPLEMENTATION AGREEMENT  
OF JUNE 23, 1954.

D. PARA 2: ALTHOUGH TGS DID NOT REQUIRE COUNTERSIGNATURE  
OF U.S. MOVEMENT ORDERS UP TO NOW, FUTURE SITUATION MIGHT  
CHANGE AND GOT COULD  
NOT WAIVE BY AGREEMENT RIGHT GIVEN  
IT AS RECEIVING STATE IN FINAL  
SENTENCE ART III, SUBPARA 2.(B)  
OF NATO/SOFA.

C. PARA 3: VISA EXEMPTION FOR DEPENDENTS AND CIVILIAN  
COMPONENT IMPLIED FROM PROVISIONS OF PARAS 1 AND 2 OF  
NATO/SOFA IMPLEMENTATION AGREEMENT ON NATO/SOFA  
APPLICABILITY AND FROM UNDERSTANDING THAT IF U.S. DOD  
CONTRACTORS AND THEIR U.S. CITIZEN PERSONNEL SPECIFICALLY  
GIVEN VISA EXEMPTION BY AGREED MINUTE TO DCA ART IV,  
PARA 1, CIVILIAN  
COMPONENT AND DEPENDENTS WOULD NOT BE  
DENIED THIS EXEMPTION.

D. PARA 4: SINCE TURKISH LEGISLATION ON COURT  
PROCEDURES DID NOT PROVIDE FOR OBSERVERS ATTENDING TRIALS  
IN CAMERA, AND BECAUSE OF STRICT SEPARATION OF EXECUTIVE  
AND JUDICIAL FUNCTIONS IN TURKEY, IT WAS NOT POSSIBLE FOR  
TURKISH AUTHORITIES TO ASK THAT COURTS ADMIT U.S. TRIAL  
OBSERVERS TO SUCH HEARINGS.

E. PARA 5: (IN REPLY TO U.S. CHAIRMAN GARDNER'S QUERY)  
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TURKISH ARMED FORCES HAD NO CENTRAL PURCHASING AUTHORITY.  
EACH LEVEL OF MILITARY COMMAND HAD CERTAIN SPENDING  
CEILING AND A COMMISSION WITHIN THE COMMAND WHICH  
DEALT WITH VARIOUS TURKISH CONTRACTORS FOR THE PROVISION  
OF NEEDED SUPPLIES. U.S. THEREFORE DID NOT NEED TO WORRY  
ABOUT BEING FORCED TO PURCHASE LOCALLY PROVIDED GOODS AND  
SERVICES THROUGH AN AGENCY OF THE GOT SINCE SUCH AN AGENCY  
DID NOT EXIST. HE THEN NOTED THAT ART IX, PARA 2, OF

NATO/SOFA PROVIDED THAT SUCH PURCHASES WOULD NORMALLY BE MADE BY AUTHORITIES PURCHASING GOODS FOR RECEIVING STATE ARMED FORCES.

4. U.S. CHAIRMAN POINTED OUT THAT USG SAW NO "URGENT OR PRESSING NEED" TO CONCLUDE NEW AGREEMENT ON EXTENSION AND IN FACT WOULD PREFER LEAVING IT AS IS. HOWEVER, IN ORDER TO COMPLY WITH DCA, AGREEMENT SHOULD BE REVIEWED. USG HAPPY WITH PRESENT PRACTICES AND DID NOT WISH REQUEST ANYTHING OF GOT ILLEGAL OR CONTRARY TO BASIC NATO/SOFA. EXTENSION ALLOWED HOST COUNTRY TO EXERCISE OPTIONS PROVIDED BY BASIC NATO/SOFA. OF THE FIVE PARAGRAPHS IN U.S. DRAFT, 2 AND 5 WERE MOST IMPORTANT. REGARDING PARA 2, WAIVER OF COUNTERSIGNATURE OF MOVEMENT ORDERS RELIEVED TURKEY AS WELL AS U.S. FROM IMMENSE BUREAUCRATIC BURDEN SINCE U.S. PRESENCE IN TURKEY MADE UP OF SPECIALISTS ON INDIVIDUAL ORDERS AND NOT MILITARY UNITS SUCH AS DIVISIONS, ETC. PARAGRAPH FIVE GAVE U.S. NEEDED FLEXIBILITY TO PROCURE LOCAL GOODS AND SERVICES FOR WIDELY SCATTERED INSTALLATIONS. IN VIEW OF PRESENT STALEMATE BETWEEN TURKISH POSITION THAT EXTENSION MUST BE ENTIRELY ABROGATED AND U.S. POSITION THAT CERTAIN EXTENSION PROVISIONS WERE USEFUL AND NECESSARY, IT APPEARED THAT ONLY POSSIBLE COURSE WAS TO SET MATTER ASIDE FOR MOMENT AND MOVE ON TO OTHER AGREEMENTS.

5. TURKISH CHAIRMAN ATTEMPTED TO ARGUE THAT DCA DID NOT ALLOW SETTING ASIDE EXTENSION UNTIL LATER. HE SAID U.S. COULD, IF IT WISHED, SUBMIT ANOTHER DRAFT INCORPORATING THOSE ELEMENTS MOST DESIRED. TURKISH DELEGATION WAS READY CONSIDER

ANY DRAFT WITH OPEN MIND BUT DRAFT WOULD HAVE TO BE IN "FULL SECRET

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CONFORMITY WITH BASIC NATO/SOFA" TO BE ACCEPTABLE.

6. U.S. CHAIRMAN SAID HE WOULD CONSIDER TURKISH REMARKS AND ASKED THAT TURKS CONTINUE CONSIDERATION OF U.S. DRAFT. IF THEY HAD ANY SPECIFIC SUGGESTIONS ON WHAT WOULD BE ACCEPTABLE TO THEM, U.S. CHAIRMAN WOULD WELCOME THEM.

7. COMMENT: TURKS HAVE MADE CLEAR THAT THEY ARE UNWILLING AT THIS TIME TO ACCEPT CONTINUING ENTIRE NATO/SOFA EXTENSION AS IS OR EVEN RETAINING THOSE PROVISIONS WHICH WE REGARD AS IMPORTANT. ON OTHER HAND WE DO NOT FEEL SUFFICIENTLY ASSURED BY ASULA'S STATEMENTS THAT EXISTING PRACTICES WILL CONTINUE TO ACCEPT TOTAL ABROGATION OF THE EXTENSION AS HE SUGGESTS. AS WE TOLD ASULA, THE ONLY APPARENT COURSE POSSIBLE IN VIEW OF THE PRESENT STALEMATE

IS TO LEAVE THIS AGREEMENT FOR NOW AND MOVE TO OTHER MATTERS. REGARDING SPECIFIC PARARRAPHS IN OUR DRAFT:

A) WE BELIEVE WE COULD DO WITHOUT PARAGRAPH 1 SINCE THE DCA AND NATO/SOFA IMPLEMENTATION AGREEMENT SUFFICIENTLY EXPAND SCOPE OF NATO/SOFA TO CLEARLY INCLUDE JUSMMAT;

B) WE SHOULD IF AT ALL POSSIBLE KEEP PARA 2 OR VARIATION THEREOF TO CONTINUE WAIVER OF GOT COUNTERSIGNATURE OF MOVEMENT ORDERS;

C) PARA 3: WE COULD IF NECESSARY LIVE WITHOUT A SPECIFIC VISA EXEMPTION FOR CIVILIAN COMPONENT AND DEPENDENTS, BUT IF GOT RESCINDED PRESENT PRACTICE WE WOULD HAVE A MORALE PROBLEM;

D) WE COULD LIVE WITHOUT PARA 4, SINCE MOST TRIALS IN TURKEY ARE OPEN IN ACCORDANCE WITH TURKISH CONSTITUTION SO THERE IS NO PROBLEM IN ADMITTANCE OF U.S. TRIAL OBSERVERS. TRIALS IN CAMERA OCCUR ONLY IN RARE CASES OF PUBLIC MORALITY OR PUBLIC SECURITY NORMALLY NOT INVOLVING AMERICANS. NEITHER NATO/SOFA NOR EXTENSION ALLOW TRIAL OBSERVERS AT COURT HEARINGS IF CONTRARY TO HOST COUNTRY LAW;

E) ALTHOUGH WE WERE INFORMED THAT TURKS  
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HAVE NO CENTRAL AGENCY FOR TURKISH ARMED FORCES' PURCHASES, GOT COULD ALWAYS DESIGNATE A GOVERNMENT AGENCY TO SERVE AS INTERMEDIARY FOR ALL USG PURCHASES OF LOCAL GOODS AND SERVICES IN ACCORDANCE WITH ARTICLE IX, PARAGRAPH 2, OF NATO/SOFA, IF EXTENSION WERE ENTIRELY TERMINATED. THEREFORE, TO AVOID POSSIBLE ADDITIONAL BUREAUCRATIC BURDEN ON OUR OPERATIONS HERE WE CONTINUE TO REGARD PARAGRAPH 5 AS IMPORTANT.  
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